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Respectfully submitted,

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By:

*Thomas L. Evars*

Thomas L. Evars, PTO Reg. No. 35,805  
BANNER AND WITCOFF, LTD.

OCT 14 2004

Technology Center 2100

Atty. Docket No.  
005156.00012

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Timothy Joel BROWN

Examiner: H. Mahmoudi

U.S. Pat. App. No.: 09/625,991

Group Art Unit: 2175

Filed: July 26, 2002

For: A SYSTEM FOR USING A FLOATING PALLET FOR A DIGITAL ASSET  
MANAGEMENT SYSTEM IN A PLURALITY OF DIFFERENT APPLICATIONS

REQUEST FOR RECONSIDERATION

Commissioner for Patents  
P.O. Box 1450,  
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully ask for reconsideration of both this application and the Office Action of June 4, 2004. A response to this Office Action was due by September 4, 2004. Accordingly, Applicants are concurrently filing a Petition for one month extension of time, together with authorization for the Commissioner to charge the associated small entity Petition fee of \$55 to Deposit Account No. 19-0733. Please consider this Request as timely filed. Moreover, if the Commissioner deems that any additional fees are necessary for the entry and

consideration of this Amendment, including any fees under 37 C.F.R. §1.16 and §1.17, the Commissioner is authorized to charge such fees to the deposit account of the undersigned, Deposit Account No. 19-0733.

Applicant gratefully thanks the Examiner and the Primary Examiner for the personal interview granted on June 16, 2004. This Request For Reconsideration formally presents the arguments made by Applicant's representative during that interview.

In the Office Action of June 4, 2004, the specification was objected to for having underlined and boldfaced headings. Applicant respectfully traverses this objection, and asks that it be withdrawn. In making this objection, the Examiner has relied upon the *suggested* guidelines in the MPEP. It is respectfully noted that 37 C.F.R. §1.77(b) does not itself prohibit either underlined or boldfaced headings. Moreover, Applicant submits that the publishers should change this formatting upon publication of a patent issuing from this application. Applicant therefore respectfully submits that an amendment to the specification to correct this minor informality is unnecessary, and asks that this objection be withdrawn.

Next, claims 1 and 2 were rejected under 35 U.S.C. §103 over U.S. Patent No. 6,167,395 to Beck et al. in view of U.S. Patent No. 6,072,994 to Phillips et al., Applicants respectfully traverse this rejection, and courteously urge its reconsideration.

Claims 1 and 2 recite the creation of "a single extension plug in to interface with API's of all of [a] plurality of different applications." These claims also recite the creation of a "floating pallet for [a] digital asset management system in one of [a] plurality of different applications wherein the floating pallet uses the properties and behaviors of a selected application..."

Applicants again respectfully submit that these features are not taught or suggested by any combination of the Beck et al. and Phillips et al. patent.

As acknowledged by the Examiner, the Beck et al. patent does not teach or suggest a single extension plug-in as recited in the claims. To supplement this omission of the Beck et al. patent, the Examiner has relied upon column 14, lines 56-67, and column 32, line 67 through column 33, line 2 of the Phillips et al. patent. Applicant respectfully points out that the Phillips et al. patent only discloses a physical module that provides a receiver unit for a radio system. Applicant respectfully invites the Examiner's attention to, e.g., column 14, lines 63-67, which states:

So doing reduces common-module overhead to the point where the size of the common RF/IF and digital processing hardware is small enough to place in a single plug-in housing of reasonably small size.

Both the instant application and the associated claims, however, are clearly directed toward a software plug in. For example, Applicants respectfully invite the Examiner's attention to the portion of the specification from page 3, lines 19-21, which states:

A single extension plug-in is created to interface with API's of all of the plurality of different applications, wherein the extension plug-in communicates with the digital asset management system.

Applicant points out that the term API is well-known in the art as an abbreviation of "application programming interface," i.e., an interface for a software application. Similarly, the plurality of applications referred to in the passage clearly refers to software applications. (See, e.g., page 1, line 16, to page 2, line 2.) The Examiner's attention also is invited to the portion of the specification from page 12, lines 14-17, which state:

Many existing software applications support “plug-in” modules and are referred to as client applications to such plug-in modules. These plug-in modules provide the client applications with new or extended services. Plug-ins may, for example, provide specially tailored image filtering functionality to client applications.

Still further, Applicant refers the Examiner to page 14, lines 1-4, which state:

More specifically, the CPU 712 loads process steps from the disk 706 into the main memory 721 and executes the stored process steps from the memory 721 in order to provide a plug-in host API to a client application and to communicate to a plug-in module via a plug-in API.

Applicant respectfully submits that process steps executed by a CPU (central processing unit) is the very definition of a software implementation.

Applicant acknowledges that the Examiner is allowed to interpret the claims in the broadest reasonable interpretation. Applicant submits, however, that interpreting a software plug-in to encompass an unrelated physical hardware module “plugs in” to other hardware components is not reasonable, particularly in light of the language of the specification. Applicant therefore urges that the Examiner’s reliance upon the physical plug-in module disclosed in the Phillips et al. patent is improper.

Still further, Applicant again urges that the Beck et al. patent does not teach or suggest a floating pallet as recited in the claims. More particularly, Applicant respectfully submits that the term “floating pallet” is not taught or suggested by the “pop-up editing window” described in the Beck et al. patent at column 27, lines 36-40. As previously argued, the “pop-up editing window” of the Beck et al. does not teach or suggest a floating pallet as recited in the claim. As well-known in the art, a “floating pallet” is a user interface window that remains visible even when the

window does not have focus. Applicant respectfully invites the Examiner's attention, for example, to the definition of floating palette in the "Usability First: Usability Glossary" provided at [www.usabilityfirst.com/glossary/term\\_176.txt](http://www.usabilityfirst.com/glossary/term_176.txt), a copy of which is attached hereto.<sup>1</sup> Further, there is nothing in the Beck et al. patent to teach or suggest that the "pop-up window" uses the properties of a selected application among a plurality of different applications, as recited in the claims.

Applicants therefore respectfully submit that no combination of the Beck et al. patent and the Phillips et al. patent would teach or suggest the features of the invention recited in claims 1 and 2. It is thus respectfully again requested that the rejection of claims 1 and 2 be withdrawn.

In view of the above remarks, Applicant respectfully submits that all of the claims are allowable, and that this application is therefore in condition for allowance. Favorable action in this regard is respectfully requested at the Examiner's earliest convenience.

Respectfully submitted,

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October 4, 2004

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1. While this article was published after the filing date of the instant application, it is being used for explanatory purposes, not evidentiary purposes, since the Examiner indicated that he was unfamiliar with this term. Nonetheless, Applicant submits that the term "floating pallet" or "floating palette" was well known in the art before the filing date of this application, and was not simply invented by Applicant for this application.



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## Usability Glossary: floating palette

a window that is subsidiary to the main document window. It has a special small title bar and it floats above standard windows even when it is not the current focus. A floating palette is typically used for options and controls.

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